

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

STATE OF TEXAS ET AL.

Plaintiffs,

v.

UNITED STATES OF AMERICA ET AL.

Defendants.

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Civil Action No. 1:14-cv-254

PLAINTIFFS’ STIPULATION OF VOLUNTARY DISMISSAL

On June 15, 2017, the U.S. Department of Homeland Security released a memorandum entitled *Rescission of November 20, 2014 Memorandum Providing for Deferred Action for Parents of Americans and Lawful Permanent Residents (“DAPA”)*. On September 5, 2017, the Department released a memorandum entitled *Rescission of the June 15, 2012 Memorandum Entitled “Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children.”* Given these memoranda rescinding the DAPA program and phasing out the DACA and Expanded DACA programs, Plaintiffs file this stipulation of voluntary dismissal. *See* Fed. R. Civ. P. 41(a)(1)(A)(ii) (allowing plaintiffs to dismiss an action, without court order, by filing a stipulation of dismissal signed by all parties who have appeared).¹

¹ The Court’s September 8, 2017 order deems Intervenor’s proposed answer (Dkt. No. 91-2) to have been filed as an answer, Dkt. No. 471 at 3-4, and deems other filings to be the “equivalent of an answer,” *id.* at 2. The instant stipulation of dismissal under Rule 41(a)(1)(A)(ii), unlike a notice of dismissal under Rule 41(a)(1)(A)(i), is not foreclosed by the filing of an answer and requires only the signature of all parties who have appeared.

This stipulation of dismissal is signed by counsel for all parties who have appeared—Plaintiffs, Defendants, and Intervenor.² Dismissal of this action is therefore automatic upon the filing of this stipulation, and no further order is needed to consider this case closed. *See Yesh Music v. Lakewood Church*, 727 F.3d 356, 362 (5th Cir. 2013) (“Stipulated dismissals under Rule 41(a)(1)(A)(ii) . . . require no judicial action or approval and are effective automatically upon filing.”). The Court’s Order of Temporary Injunction (Dkt. No. 144) is necessarily dissolved by this dismissal. *See Francis v. Johnson*, 129 F.3d 610 (5th Cir. 1997) (unpublished) (per curiam) (citing 11A Charles Alan Wright et al., *Federal Practice & Procedure* § 2947 at 126 n.19 (2d ed. 1995)); *Venezia v. Robinson*, 16 F.3d 209, 211 (7th Cir. 1994); *see also De Leon v. Marcos*, 659 F.3d 1276, 1283 (10th Cir. 2011) (“A stipulation of dismissal . . . is self-executing and immediately strips the district court of jurisdiction over the merits.”).

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(B), this dismissal is without prejudice because Plaintiffs have not previously dismissed any federal- or state-court action based on or including the same claim.

² *See Oswalt v. Scripto, Inc.*, 616 F.2d 191, 194 (5th Cir. 1980) (noting that a stipulation of dismissal, like other filings, may be “signed by the attorneys for” the parties); United States District Court, Southern District of Texas, *Administrative Procedures for Electronic Filing in Civil and Criminal Cases*, at 8(C)(1) (Jan. 1, 2007; amended July 18, 2013) (allowing “[a] Filing User who electronically files any document requiring the signature of another individual” to “submit an imaged document containing all the necessary signatures inserted by hand”).

Dated: September 12, 2017

Respectfully submitted.

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CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of September, 2017, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system and served on all attorney(s) and/or parties of record, via the CM/ECF service.

s/ Angela V. Colmenero
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